

Introduced by Senator Scott

January 6, 2005

An act to amend Section 12316 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

SB 48, as introduced, Scott. Ammunition.

Existing law makes it an offense for any person, corporation, or dealer to sell ammunition or reloaded ammunition to a person, knowing that person to be under 18 years of age, or to sell ammunition or reloaded ammunition designed and intended for use in a handgun to a person, knowing that person to be under 21 years of age. Existing law also establishes an affirmative defense to the offense if, among other things, the seller relied upon bona fide evidence of majority and identity, as defined.

This bill would remove the element of “knowing the person to be under the age” of 18 or 21 years of age, as applicable, from the definition of the offense. The bill would require reasonable reliance upon bona fide evidence of majority and identity, as defined, in order for the affirmative defense to apply.

By expanding the scope of an existing crime, and narrowing the scope of an affirmative defense to that crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12316 of the Penal Code is amended to
2 read:
3 12316. (a) (1) Any person, corporation, or dealer who does
4 either of the following shall be punished by imprisonment in a
5 county jail for a term not to exceed six months, or by a fine not to
6 exceed one thousand dollars (\$1,000), or by both the
7 imprisonment and fine:
8 (A) Sells any ammunition or reloaded ammunition to a person
9 ~~knowing that person to be~~ under 18 years of age.
10 (B) Sells any ammunition or reloaded ammunition designed
11 and intended for use in a pistol, revolver, or other firearm capable
12 of being concealed upon the person to a person ~~knowing that~~
13 ~~person to be~~ under 21 years of age. As used in this subparagraph,
14 “ammunition” means handgun ammunition as defined in
15 subdivision (a) of Section 12323. Where ammunition or reloaded
16 ammunition may be used in both a rifle and a handgun, federal
17 law shall be considered for purposes of enforcing this
18 subparagraph.
19 (2) Proof that a person, corporation, or dealer, or his or her
20 agent or employee, demanded, was shown, and acted in
21 *reasonable* reliance upon, bona fide evidence of majority and
22 identity shall be a defense to any criminal prosecution under this
23 subdivision. As used in this subdivision, “bona fide evidence of
24 majority and identity” means a document issued by a federal,
25 state, county, or municipal government, or subdivision or agency
26 thereof, including, but not limited to, a motor vehicle operator’s
27 license, California state identification card, identification card
28 issued to a member of the armed forces, or other form of
29 identification that bears the name, date of birth, description, and
30 picture of the person.
31 (b) (1) No person prohibited from owning or possessing a
32 firearm under Section 12021 or 12021.1 of this code or Section
33 8100 or 8103 of the Welfare and Institutions Code shall own,
34 possess, or have under his or her custody or control, any
35 ammunition or reloaded ammunition.

1 (2) For purposes of this subdivision, “ammunition” shall
2 include, but not be limited to, any bullet, cartridge, magazine,
3 clip, speed loader, autoloader, or projectile capable of being fired
4 from a firearm with a deadly consequence.

5 (3) A violation of this subdivision is punishable by
6 imprisonment in a county jail not to exceed one year or in the
7 state prison, by a fine not to exceed one thousand dollars
8 (\$1,000), or by both the fine and imprisonment.

9 (c) Unless it is with the written permission of the school
10 district superintendent, his or her designee, or equivalent school
11 authority, no person shall carry ammunition or reloaded
12 ammunition onto school grounds, except sworn law enforcement
13 officers acting within the scope of their duties or persons
14 exempted under subparagraph (A) of paragraph (1) of
15 subdivision (a) of Section 12027. This subdivision shall not
16 apply to a duly appointed peace officer as defined in Chapter 4.5
17 (commencing with Section 830) of Title 3 of Part 2, a full-time
18 paid peace officer of another state or the federal government who
19 is carrying out official duties while in California, any person
20 summoned by any of these officers to assist in making an arrest
21 or preserving the peace while he or she is actually engaged in
22 assisting the officer, a member of the military forces of this state
23 or of the United States who is engaged in the performance of his
24 or her duties, a person holding a valid license to carry the firearm
25 pursuant to Article 3 (commencing with Section 12050) of
26 Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who
27 is engaged in the performance of his or her duties, as defined in
28 subdivision (e) of Section 7521 of the Business and Professions
29 Code. A violation of this subdivision is punishable by
30 imprisonment in a county jail for a term not to exceed six
31 months, a fine not to exceed one thousand dollars (\$1,000), or
32 both the imprisonment and fine.

33 (d) (1) A violation of paragraph (1) of subdivision (b) is
34 justifiable where all of the following conditions are met:

35 (A) The person found the ammunition or reloaded ammunition
36 or took the ammunition or reloaded ammunition from a person
37 who was committing a crime against him or her.

38 (B) The person possessed the ammunition or reloaded
39 ammunition no longer than was necessary to deliver or transport

1 the ammunition or reloaded ammunition to a law enforcement
2 agency for that agency's disposition according to law.

3 (C) The person is prohibited from possessing any ammunition
4 or reloaded ammunition solely because that person is prohibited
5 from owning or possessing a firearm only by virtue of Section
6 12021.

7 (2) Upon the trial for violating paragraph (1) of subdivision
8 (b), the trier of fact shall determine whether the defendant is
9 subject to the exemption created by this subdivision.

10 (3) The defendant has the burden of proving by a
11 preponderance of the evidence that he or she is subject to the
12 exemption provided by this subdivision.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the
18 penalty for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition of a
20 crime within the meaning of Section 6 of Article XIII B of the
21 California Constitution.